



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession.

The original hearing was conducted via teleconference and was attended by the landlord and one of the tenants.

During the original hearing the tenant could not respond consistently to questions regarding service of the notice of hearing; the landlord's evidence; or events during the tenancy due to a language barrier. As a result, I adjourned the hearing for the tenant to find someone who could translate for him. Notices for the reconvened hearing were mailed directly to both parties from the Residential Tenancy Branch on Tuesday, December 11, 2012.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for cause; and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 47, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord provided into evidence the following documents;

- A copy of a tenancy agreement signed by the parties on August 9, 2011 for a 1 year fixed term tenancy beginning on September 1, 2011 that converted to a month to month tenancy beginning on September 1, 2012 for a monthly rent of \$860.00 due on the 31st of each month with a security deposit of \$430.00 paid;
- A copy of a 1 Month Notice to End Tenancy for Cause issued by the landlord on October 26, 2012 with an effective date of November 30, 2012 citing the tenants are repeatedly late paying rent; and
- A copy of a Proof of Service for a 10 Day Notice to End Tenancy for Unpaid Rent document indicating the landlord had served the tenant with a 10 Day Notice to End Tenancy by posting it on the door of the rental unit where the tenant resides and that this service was witnessed by a tenant named "Nina".

The tenant testified that he had not received the 1 Month Notice to End Tenancy for Cause issued by the landlord on October 26, 2012. The landlord did not have the contact information for the witness who signed the Proof of Service document.

Analysis

As the tenant states that he did not receive a 1 Month Notice to End Tenancy for Cause and the landlord's witness, who signed the 10 Day Notice to End Tenancy for Unpaid Rent Proof of Service document, was not available to testify and clarify whether or not she witnessed the landlord serving a 10 Day Notice or a 1 Month Notice, I find the landlord has failed to establish the tenant was served with any notice to end tenancy on October 26, 2012.

Conclusion

Based on the above, I dismiss the landlord's Application in its entirety.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 17, 2012.

Residential Tenancy Branch